

Exhibit 6

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
4 Civil Action No. 10-141 (CM) (KF)

5 MARVEL WORLDWIDE, INC.,)
6 MARVEL CHARACTERS, INC.,)
7 and MVL RIGHTS, LLC.,)

8 Plaintiffs,)

9 vs.)

10 LISA R. KIRBY, BARBARA J.)
11 KIRBY, NEAL L. KIRBY and)
12 SUSAN N. KIRBY,)

13 Defendants.)
14)
15)

16 VOLUME I

17 VIDEOTAPED DEPOSITION OF

18 ROY THOMAS

19 October 26, 2010

20 10:06 a.m.

21 Holiday Inn Express
22 Orangeburg, South Carolina

23 ANNIE O'HARA, CCR-B-2340, SC Notary
24
25

APPEARANCES OF COUNSEL

On behalf of the Plaintiffs:

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On behalf of the Defendants:

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Videographer:

Michael Arrison

- - -

1 Thomas

2 Q. So from the time that you were a staff
3 writer until the time that you were -- that you
4 became the associate editor in '67, you were a de
5 facto editor; is that fair to say? With no official
6 title, but you were an editor?

7 A. An editor, an assistant editor. I guess
8 so. I remember calling myself an editor without
9 some other qualifying term. But it was editorial
10 work it was an editor, yes.

11 Q. And during that time period when you were
12 the assistant editor, were you still doing freelance
13 work on top of your assistant editor
14 responsibilities?

15 A. Yes.

16 Q. And were you still being paid both a
17 salary for the editorial work that you were doing
18 and by the page for the freelance writing you were
19 doing?

20 A. Yes.

21 Q. Were you also still physically doing your
22 editorial duties in the office and your freelance
23 writing outside the office?

24 A. Yes. Except that somewhere about six
25 months to a year into my job Stan, who worked at

1 Thomas

2 home a couple of days a week himself -- like a
3 Tuesday and a Thursday, generally -- he decided that
4 he needed more writing out of me. And a lot of the
5 editorial stuff could be done in the three days --
6 the other three days so -- so he decided that I
7 should stay at home about two days a week, the same
8 two he did; because he wanted me there when he was
9 there as opposed to staggering them, and just write.

10 But during those days I was still being
11 paid for freelance writing when I was at home, so it
12 was, in effect, like giving me like a three-day
13 editorial week at the office and having me do
14 freelance work the rest of the time. In a sense, I
15 guess, it became a raise.

16 Q. Understood.

17 Did you get separate checks for the salary
18 work that you did and the freelance work that you
19 did, or was it one combined check?

20 A. They were separate checks.

21 Q. Did your reporting relationships change at
22 all when you became -- when you moved from staff
23 writer to assistant editor?

24 A. No.

25 Q. You said in '67 you became associate

1 Thomas

2 still also doing freelance work on top of your
3 editorial duties?

4 A. Yes.

5 Q. Were you still also being paid a salary
6 for the editorial work you did and page rate for the
7 freelance writing you were doing?

8 A. Yes.

9 Q. Who did you report to as editor-in-chief?

10 A. Stan. I should say Stan Lee, but Stan.

11 Q. How long did you hold the editor-in-chief
12 position?

13 A. A little over two years.

14 Q. So about '74?

15 A. Yes, it was around the -- around Labor Day
16 or so of '74 is when I stepped down.

17 Q. Okay. And -- and you continued working
18 for Marvel after that?

19 A. Yes, under contract. Yes, I hadn't had a
20 contract before; but now they gave me a writer and
21 editor contract.

22 MR. TOBEROFF: It's a good segue.

23 THE WITNESS: Pardon me?

24 MR. TOBEROFF: It's a good segue.

25 (Plaintiff's Exhibit 4 was marked for

1 Thomas

2 Q. Did you understand at that time that
3 Marvel had a legal obligation to return the artwork
4 to the creators?

5 MR. TOBEROFF: Calls for a legal opinion.

6 THE WITNESS: It was Marvel's contention
7 that the artwork was theirs. They simply felt
8 they were giving it back to the artist so that
9 the artist could either have it for their own
10 edification or to give or sell and make extra a
11 little extra income. It was intended to get
12 good will with the artists and the writers.

13 BY MS. KLEINICK:

14 Q. Do you know between 1972, when the policy
15 first came into effect, until you left Marvel in
16 1980, did the policy change at all?

17 A. I believe that at some stage -- in the
18 latter part of that or right after -- at some stage
19 they stopped giving the writer any pages. Some of
20 the artists objected to the idea that the writer
21 should get any of the pages. And after that it was
22 only given to the penciller and inker, but I don't
23 know at what stage that happened.

24 Q. Do you know whether or not DC Comics had a
25 policy in the 1960s or early '70s of whether or not

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2 Q. You mentioned the name Atlas. When you
3 first started working for Marvel in July of 1965,
4 what was the company called? What was Marvel's
5 predecessor called?

6 MS. KLEINICK: Objection.

7 THE WITNESS: I learned when I came to
8 work there that the overall company -- a name I
9 did not recall ever hearing before was Magazine
10 Management, which included Marvel as kind of a
11 division of it. I had never heard that term
12 before. That included Marvel Comics and also
13 about two-thirds of the company were these men's
14 magazines, romance, movie, crossword puzzle, et
15 cetera, et cetera.

16 BY MR. TOBEROFF:

17 Q. When you were hired as a salary employee,
18 what company hired you?

19 A. Magazine Management, actually.

20 Q. Do you recall the names on the checks that
21 you received?

22 A. I know Magazine Management was on their
23 sometime, and sometime it was Marvel; but I don't
24 remember when or how it changed.

25 Q. And do you believe that it was Magazine

1 Thomas

2 Q. Did you have a written contract with
3 Marvel when they employed you as a staff writer in
4 1965?

5 A. No.

6 Q. Did you have an oral contract?

7 A. Well, I guess that's what you'd call it.
8 I was told, you know, come to work for us, and I was
9 put on the payroll. I guess you could call that an
10 oral contract.

11 Q. And -- and -- so you had an agreement with
12 them that they were going to pay you a weekly
13 salary, and you also had an agreement with them that
14 for your freelance writing work you'd be paid on a
15 per-page basis?

16 A. Yes.

17 Q. When is the first -- when is the first
18 time you had a written agreement with Marvel?

19 A. To the best of my recollection it was the
20 1974 writer/editor contract.

21 Q. I'm trying not to duplicate questions
22 you've already been asked.

23 Regarding your work starting in 1965 --
24 and focus on the period between 1965 and 1970 --
25 during that period regarding your work as a